

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FRANK D'AGOSTINO,

Plaintiff

v.

DR. NAUGHTON, *et al.*,

Defendants

Case No. 3:20-cv-00480-RCJ-CLB

ORDER

I. DISCUSSION

On August 24, 2020, Plaintiff, an inmate in the custody of the Nevada Department of Corrections ("NDOC"), submitted a civil rights complaint under 42 U.S.C. § 1983. (ECF No. 1-1). Plaintiff has neither paid the full \$400 filing fee for this matter nor filed an application to proceed *in forma pauperis* with complete financial attachments.

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$400 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

(1) a completed Application to Proceed in Forma Pauperis for Inmate, this Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on page 3),

(2) a Financial Certificate properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court's approved form), and

(3) a copy of the inmate's prison or jail trust fund account statement for the previous six-month period.

The Court will grant Plaintiff a one-time opportunity to file a fully complete application to proceed *in forma pauperis* containing all three of the required documents, or in the alternative, pay the full \$400 filing fee for this action on or before **October 26, 2020**. Absent unusual circumstances, the Court will not grant any further extensions of

1 time. If Plaintiff is unable to file a fully complete application to proceed *in forma pauperis*
 2 with all three required documents or pay the full \$400 filing fee on or before **October 26,**
 3 **2020**, the Court will dismiss this case without prejudice for Plaintiff to file a new case with
 4 the Court when Plaintiff is either able to acquire all three of the documents needed to file
 5 a fully complete application to proceed *in forma pauperis* or pays the full \$400 filing fee.

6 A dismissal without prejudice means Plaintiff does not give up the right to refile the
 7 case with the Court, under a new case number, when Plaintiff has all three documents
 8 needed to submit with an application to proceed *in forma pauperis*. Alternatively, Plaintiff
 9 may choose not to file an application to proceed *in forma pauperis* and instead pay the
 10 full filing fee of \$400 on or before **October 26, 2020** to proceed with this case.

11 The Court will retain Plaintiff's civil rights complaint (ECF No. 1-1), but the Court
 12 will not file the complaint unless and until Plaintiff timely files a fully complete application
 13 to proceed *in forma pauperis* with all three documents or pays the full \$400 filing fee.

14 II. CONCLUSION

15 For the foregoing reasons, IT IS ORDERED that the Clerk of the Court will send
 16 Plaintiff the approved form application to proceed *in forma pauperis* by an inmate, as well
 17 as the document entitled information and instructions for filing an *in forma pauperis*
 18 application.

19 IT IS FURTHER ORDERED that on or before **October 26, 2020**, Plaintiff will either
 20 pay the full \$400 filing fee for a civil action (which includes the \$350 filing fee and the \$50
 21 administrative fee) or file with the Court:

22 (1) a completed Application to Proceed in Forma Pauperis for Inmate on this
 23 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
 24 signatures on page 3),

25 (2) a Financial Certificate properly signed by both the inmate and a prison or jail
 26 official (i.e. page 4 of this Court's approved form), and

27 (3) a copy of the inmate's prison or jail trust fund account statement for the
 28 previous six-month period.

1 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete
2 application to proceed *in forma pauperis* with all three documents or pay the full \$400
3 filing fee for a civil action on or before **October 26, 2020**, the Court will dismiss this action
4 without prejudice for Plaintiff to refile the case with the Court, under a new case number,
5 when Plaintiff has all three documents needed to file a complete application to proceed
6 *in forma pauperis* or pays the full \$400 filing fee.

7 IT IS FURTHER ORDERED that the Clerk of the Court will retain the complaint
8 (ECF No.1-1) but will not file it at this time.

9 DATED: August 26, 2020

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12 UNITED STATES MAGISTRATE JUDGE
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